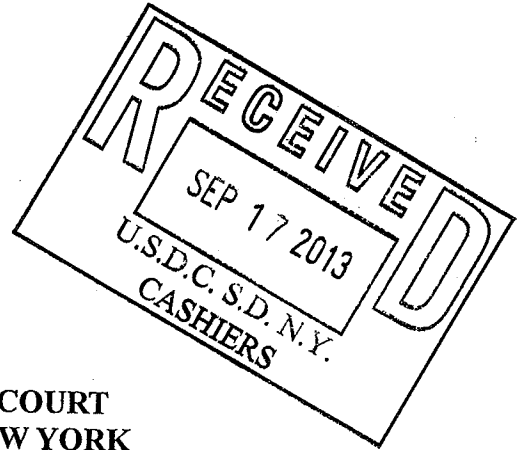


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File No.: 102424



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

National Photo Group, LLC,

Plaintiff,

vs.

Steve Covino, Rich Davis and ABC Corp.,

Defendant(s).

Docket No: 13CIV5360

DEMAND FOR JURY TRIAL

**AMENDED
COMPLAINT**

National Photo Group, LLC ("NPG") (hereinafter the "*Plaintiff*"), by and through its undersigned counsel, states and alleges as follows:

INTRODUCTION

1. Plaintiff provides entertainment-related photojournalism goods and services and owns the rights to a multitude of photographs featuring celebrities, which it licenses to online and print publications. Plaintiff has obtained U.S. copyright registrations covering many of its photographs, and others are the subject of pending copyright applications.

2. Defendants Steve Covino, Rich Davis and a business entity presently unknown to Plaintiff referred to herein as ABC Corp. (hereinafter collectively referred to as "*Defendants*") own and operate a website known as www.covinoandrich.com (referred to herein as the "*Website*") and without permission or authorization from Plaintiff copied, modified, and

1 displayed Plaintiff's photograph(s) on the Website and engaged in this misconduct knowingly
2 and in violation of the United States copyright laws.

3 3. Plaintiff has been substantially harmed as a result of Defendants' misconduct.

4 **JURISDICTION AND VENUE**

5 4. This Court has subject matter jurisdiction over the federal copyright infringement
6 claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331. The Court has supplemental
7 jurisdiction over the claims arising under state law pursuant to 28 U.S.C. §1367(a) in that the
8 state claims are so related to the claims over which the court has original jurisdiction that they
9 form part of the same case or controversy.

10 5. This Court has personal jurisdiction over the Defendants who maintain their
11 principal place of business in New York County, New York and purposely direct substantial
12 activities at the residents of New York by means of the website described herein.

13 6. Venue is proper under 28 U.S.C. §1391(a)(2) because the Defendants do business
14 in this Judicial District or because a substantial part of the events or omissions giving rise to the
15 claim occurred in this Judicial District.

16 **PARTIES**

17 7. NPG is a California Corporation and maintains its principal place of business in
18 Los Angeles County, California.

19 8. On information and belief, Steve Covino, is an individual who resides and/or
20 maintains a principal place of business in New York County, New York and is liable and
21 responsible to Plaintiff based on the facts herein alleged.

22 9. On information and belief, Rich Davis, is an individual who resides and/or
23 maintains a principal place of business in New York County, New York and is liable and
24 responsible to Plaintiff based on the facts herein alleged.

25 10. On information and belief, ABC Corp., is a domestic business corporation with a
26 principal place of business in New York County, New York, the identity of which is presently
27 unknown to the Plaintiff, which is liable and responsible to Plaintiff based on the facts herein
28

1 alleged.

2
3 **FACTUAL ALLEGATIONS**

4 11. Plaintiff owns the rights to a multitude of photographs which it licenses to online
5 and print publications and has invested significant time and money in building its photograph
6 portfolio.

7 12. Plaintiff has obtained several active and valid copyright registrations with the
8 United States Copyright Office (the "USCO"), which registrations cover many of its photographs
9 and many others are the subject of pending copyright applications.

10 13. Plaintiff's photographs are original, creative works in which Plaintiff owns
11 protectable copyright interests.

12 14. Defendants are the registered owners of the Website and are responsible for its
13 content.

14 15. The Website provides, *inter alia*, articles, photographs and other information
15 regarding celebrities.

16 16. The Website is monetized in that it contains paid advertisements and/or sells
17 merchandise to the public and, on information and belief, Defendants profit from these activities.

18 17. Without permission or authorization from Plaintiff, Defendants copied, modified,
19 and/or displayed Plaintiff's rights protected photographs (hereinafter collectively referred to as
20 "*Photograph(s)*"), as set forth in Exhibit "1" which is annexed hereto and incorporated in its
21 entirety herein, on the Website.

22 18. On information and belief, the Photograph(s) were copied without license or
23 permission, thereby infringing on the Copyrights (hereinafter collectively referred to as the
24 "*Infringement(s)*").

25 19. On information and belief, Defendants were aware of facts or circumstances from
26 which the determination regarding the Infringement(s) was apparent. Based on this totality of
27 circumstances, Defendants cannot claim that they are not aware of the widespread infringing
28 activities, including the Infringement(s), on the Website since such a claim would amount to only

1 willful blindness to the Infringement(s) on the part of Defendants.

2 20. On information and belief, Defendants engaged in the Infringement(s) knowingly
3 and in violation of applicable United States Copyright Laws.

4 21. On information and belief, Defendants have received a financial benefit directly
5 attributable to the Infringement(s). Specifically, by way of the Infringement(s), the Website has
6 increased traffic to it and, in turn, realized an increase in advertising revenues and/or
7 merchandise sales.

8 22. As a result of Defendants' misconduct, Plaintiff has been substantially harmed.

9 **FIRST COUNT**

10 *(Copyright Infringement, 17 U.S.C. § 501 et seq.)*

11 23. Plaintiff repeats and incorporates by reference the allegations contained in the
12 preceding paragraphs, as though set forth in full herein.

13 24. The Photograph(s) are original, creative works in which Plaintiff owns protectable
14 copyright interests.

15 25. Plaintiff has not licensed Defendants the right to use the Photograph(s) in any
16 manner, nor has Plaintiff assigned any of its exclusive rights in the Copyrights to Defendants.

17 26. Without permission or authorization from Plaintiff and in willful violation of its
18 rights under 17 U.S.C. §106, Defendants improperly and illegally reproduced the Photograph(s).

19 27. Defendants' reproduction of the Photograph(s) and display of the Photograph(s)
20 on the Website constitutes willful copyright infringement.

21 28. On information and belief, thousands of people have viewed the unlawful copies
22 of the Photograph(s) on the Website.

23 29. On information and belief, Defendants had knowledge of the copyright
24 infringement alleged herein and had the ability to stop the reproduction and display of Plaintiff's
25 copyrighted material.

26 30. Defendants' copyright infringement has damaged Plaintiff in an amount to be
27 proven at trial.
28

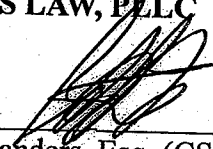
PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That the Court enter a judgment finding that Defendants have infringed on Plaintiff's rights to the Photograph(s) in violation of 17 U.S.C. § 501 et seq.;
2. That the Court award damages and monetary relief as follows:
 - a. Statutory damages against Defendants pursuant to 17 U.S.C. § 504(c) of \$150,000 per infringement or in the alternative Plaintiff's actual damages and the disgorgement of Defendants' wrongful profits in an amount to be proven at trial;
 - b. Plaintiff's attorneys' fees pursuant to 17 U.S.C. § 505;
 - c. Plaintiff's costs; and
3. Such other relief that the Court determines is just and proper.

DATED: September 10, 2013

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